

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 326 – HB 774

February 8, 2016

SUMMARY OF ORIGINAL BILL: Enacts the Uniform Fiduciary Access to Digital Assets Act. Establishes procedures that allows fiduciaries (e.g., executors, guardians, conservators, powers of attorney, trustees, etc.) to access a deceased individual's digital assets, including digital property and electronic communications.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (008785, 011862): Amendment 008785 deletes and rewrites the bill except for the enacting clause. Enacts the Revised Uniform Fiduciary Access to Digital Assets Act. The amended act addresses more issues than the previously proposed Uniform Fiduciary Access to Digital Assets Act such as administrative fees, deleted assets, unduly burdensome requests, account termination, and joint accounts.

Adds a provision to the Tennessee Personal and Commercial Computer Act of 2003 (Tenn. Code Ann. § 39-14-601 et seq.) clarifying that access to digital assets is not a violation of the act if accessing is in compliance with the Revised Uniform Fiduciary Access to Digital Assets Act.

Adds a provision and a new section to the Uniform Durable Power of Attorney Act (Tenn. Code Ann. § 34-6-101 et seq.) adding the power to access any catalogue of electronic communications and any other digital assets by a power of attorney, and clarifies that any power of attorney expressly granting an attorney-in-fact or other agent authority over the content of an electronic communication of a principal gives the attorney-in-fact or other agent authority to access the content of an electronic communication permitted to be disclosed under the Electronic Communications Privacy Act (18 U.S.C. § 2702(b)).

Amendment 011862 adds references to "designated recipient" as defined in the act as revised by amendment 008785.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Unchanged from the original fiscal note.

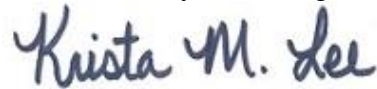
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Assumptions for the bill as amended:

- The bill as amended allows fiduciaries access to an account holder's information with custodians (e.g., social network sites, online commodities accounts, etc.) under certain procedures.
- It is assumed that state and local governmental entities are not usually "custodians" as defined in the bill as amended. It is assumed that the bill as amended will not significantly impact state or local operations.
- The Office of the Comptroller, the Department of Finance and Administration, the Department of Financial Institutions, the Department of the Treasury, and the Department of Revenue confirm that the bill will not significantly impact their operations.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm